

WILLIAM BRINDLE.

FEBRUARY 25, 1878.—Recommitted to the Committee of Claims and ordered to be printed.

Mr. BRIGHT, from the Committee of Claims, submitted the following

REPORT:

[To accompany bill H. R. 2132.]

The Committee of Claims, having had under consideration the bill (H. R. 2132) providing for the pay for clerical services and extraordinary expenses under the seventh section of the act of Congress of August 8, 1856, in the Pawnee land-district in Kansas, beg leave to report:

That, from the evidence submitted to the committee, William Brindle, a citizen of Pennsylvania, was appointed by the Government of the United States receiver of public moneys and disbursing-agent in the Pawnee land-district in Kansas in 1857, and performed the duties of that office until 1861.

That Congress, on the 18th of August, 1856, in the seventh section of "An act making appropriations for certain civil expenses of the government," enacted—

That in the settlement of the accounts of registers and receivers of the public land-offices the Secretary of the Interior be, and he is hereby, authorized to allow, subject to the approval of Congress, such reasonable compensation for additional clerical services and extraordinary expenses incident to said offices as he shall think just and proper, and report to Congress all such cases of allowance, at each succeeding Congress, with estimates of the sum or sums required to pay the same. (Stat. at L., vol. 11, p. 91.)

That during the tenure of office by Mr. Brindle the public business was very great and required the employment of clerical force and the incurring of extraordinary expenses, as contemplated by the act of 1856, and that such clerical force was employed and expenses incurred, and the same were reported to the Secretary of the Interior by Mr. Brindle.

That on the 26th of January, 1861, Moses Kelly, then Acting Secretary of the Interior, reported to Congress the claim of Mr. Brindle for rent and clerk-hire, and recommended an allowance as follows:

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| Office-rent, January 1, 1857, to September, 1860 | \$1,145 00 |
| Extra clerk-hire of G. Wynkoop during public sales in 1859 | 240 00 |
| Special clerk-hire of H. P. Petrican in 1857, as per vouchers 3 and 4 | 200 00 |
| Clerk-hire, 1 clerk from October 1, 1857, to April 30, 1860, two and one-half years, at \$4 per day, during days of work or excluding Sundays, 782, at \$4 per day | 3,128 00 |
| Total | 4,713 00 |

The Acting Secretary of the Interior also reported that—

Mr. Brindle claims clerk-hire during the period of two and one-half years at the rate of \$1,800 per annum as the amount he has actually paid, but, although he presents in the accompanying letters strong reasons in favor of the amount as claimed by him, as the recommendations of the department in similar cases heretofore have not exceeded the rate of \$4 per day, and the length of time is considerable, I have deemed it proper to base my recommendation for an appropriation on that rate.

That the amount claimed by Mr. Brindle for allowance, as the amount actually paid by him was \$6,135, from which deduct the \$4,713, and \$1,422 would remain, being the amount of reduction of his claim by the department.

But after making the deduction of \$1,422, and giving credit for the amount, \$4,713, allowed by the department, Mr. Brindle insists that on a settlement the government would owe him an admitted balance of \$1,838.05, and he refers to various vouchers to support his claim.

It does not appear that the amount reported to Congress for an appropriation was acted upon in any way. It is most probable that the attention of Congress was diverted from it by the more absorbing events of the civil war. Nor does it appear that the Secretary of the Interior reported the claim to any succeeding Congress for an appropriation, although often requested so to do by Mr. Brindle—that his accounts with the department might be closed.

The Secretary of the Interior failing to make any further application to Congress for an appropriation, Mr. Brindle procured a bill to be introduced in the Forty-fourth Congress for his relief which was referred to the Committee of Claims of that Congress, but for the want of time the bill was not acted on by the committee.

In the month of May, 1877, the government brought suit against Mr. Brindle as receiver of public moneys, &c., in the district court for the eastern district of Pennsylvania for the recovery of certain sums alleged to be in his hands as such receiver.

Under an apprehension that his defenses to such suit might be inadequate without the action of Congress, he now asks Congress to allow him said sum of \$4,713, heretofore reported for allowance, to be applied to his credit on the trial of said cause, and furthermore to permit him to plead, free of bar, any matter of set-off which he may justly have against the government.

1st. From the foregoing facts the committee are of the opinion that the said William Brindle is clearly entitled to a credit of \$4,713, the amount allowed by the Acting Secretary of the Interior, and that the credit should be allowed as of the 26th of January, 1861, the date of allowance.

2d. As to the amount claimed by Mr. Brindle, above the sum of \$4,713, arising in any way out of the discharge of his duties as an officer of the government, the same ought to be submitted to the adjudication of the district court of the United States for the eastern district of Pennsylvania, the forum elected by the department of the United States.

3d. The committee are of the opinion that Congress should have promptly made the appropriation to pay the allowance of \$4,713 to Mr. Brindle, and in the default of Congress to make the appropriation in 1861, it was the duty of the department to have reported the same to Congress from time to time, until Congressional action was obtained, before any suit should have been brought.

The act of 1856, under which the allowance was made, clearly shows that three parties were necessary in the settlement of the account of the receiver, viz: 1st. The receiver himself, who was authorized to employ necessary clerical force and incur the expense of rents. 2d. The Secretary of the Interior, who was to audit the account and recommend it to Congress for appropriation. 3d. And Congress, which was to make the appropriation.

The receiver was in no default, but the other parties charged with duties under the law were in default, and the committee are of opinion that the receiver should be permitted to avail himself of all legal defenses,

free from the operation of any statute of limitations on the trial in said district court.

They therefore recommend the passage of the bill, with the following amendment, which is intended to obviate any obscurity in the defense to the suit, by adding after the words William Brindle, in line 22, "and said set-off shall not be barred by any statute of limitations."

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